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# United States Senate

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January 23, 2009

The Honorable Steven Chu  
Secretary of Energy  
U.S. Department of Energy  
1000 Independence Ave., SW  
Washington, D.C. 20585

Dear Secretary Chu:

I am writing regarding concerns I have with the transparency of the decision-making process for the loan applications submitted to the U.S. Department of Energy's Advanced Technology Vehicles Manufacturing Incentive Program, which was authorized by section 136 of the Energy Independence and Security Act of 2007, as amended.

Section 136 authorizes the Secretary to issue grants and direct loans to applicants for the costs of reequipping, expanding, or establishing manufacturing facilities in the United States to produce qualified advanced technology vehicles, or qualifying components.

As you may know, an advanced technology vehicle industry is growing worldwide and governments in Europe and Asia have committed vast resources to build their own industries. While the U.S. has the technology and expertise in this industry, it lacks domestic production capacity and a sustained federal commitment. Consequently, our nation is falling behind. Researchers in the U.S., for instance, invented the lithium-ion battery and the Plug-in Hybrid Electric Vehicle (PHEV). However, Asia now manufactures the vast majority of the lithium-ion batteries, and a Chinese automaker rolled out a mass-produced PHEV this past December.

The money Congress appropriated for the advanced technology vehicle program represents our nation's first substantial federal commitment to electric drive transportation. It will help create and save jobs, stimulate the economy, and decrease our dependence on foreign oil, while also positioning the U.S. as a global manufacturing leader in advanced vehicle technologies. Moving beyond oil to electricity to fuel our vehicles will also provide cleaner air, fewer greenhouse gas emissions, and cost savings for consumers in terms of vehicle fueling, operation, and maintenance.

While the interim final rule, 10 CFR Part 611, sets forth eligibility criteria, application procedures, and specific terms and conditions for the receipt of grants and direct loans, it fails to specify how or when the Department of Energy will award any of those loans in a timely manner to qualified, financially viable companies.

Section 129 (b) of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, states that Congress provided the money for direct loans as an "emergency requirement . . . to meet emergency needs." The Department then undertook an expedited rulemaking process to ensure the loans would be awarded in a timely manner. But when issuing the interim final rule, the Department stated that it may make decisions on the first tranche of loan applications "*at any time*." (Emphasis added.) Indeed, under the interim final rule, the Department is under no obligation to meet any deadline in issuing the loans.

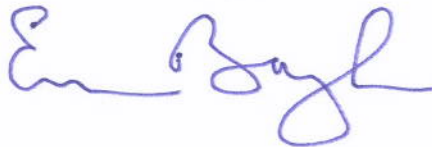
Because Congress appropriated money for the direct loans to meet emergency needs, I believe the Department is under an obligation to issue the loans as soon as possible. This can be done by notifying applicants about the progress of their application at key points in the Department's decision making process and by making award determinations at the end of every subsequent quarter, until the appropriated funds are expended. For example, for all qualified applications submitted by financially viable companies on or before December 31, 2008, the Department should select eligible projects to receive the direct loans by March 31, 2009.

I am writing, therefore, to respectfully request that you administer the loan program in a transparent and expeditious manner. To that end, would you please provide me with:

- 1) A detailed explanation of the process the Department will institute to make the loan application decision making process as transparent as possible for all applicants; and,
- 2) The specific dates when the Department will notify applicants about the progress of their loan application at key stages in the decision making process, and in particular, the specific dates the Department will award loans for each tranche.

I look forward to your prompt response in this matter, preferably by February 2, 2009.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Bayh". The signature is fluid and cursive, with a large loop at the end.

Evan Bayh  
U.S. Senator